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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 15th March, 1985:—

Bill No. V of 1985

A Bill to confer certain powers on the Central Government to secure that claims arising out of, or connected with, the Bhopal gas leak disaster are dealt with speedily, effectively, equitably and to the best advantage of the claimants and for matters incidental thereto. ...

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.

(*2*) It shall be deemed to have come into force on the 20th day of February, 1985.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Bhopal gas leak disaster" or "disaster" means the occurrence on the 2nd and 3rd days of December, 1984, which involved the release of highly noxious and abnormally dangerous gas from a plant in Bhopal (being a plant of the Union Carbide India Limited, a subsidiary of the Union Carbide Corporation, U.S.A.) and which resulted in loss of life and damage to property on an extensive scale;

(*b*) "claim" means—

(*i*) a claim, arising out of, or connected with, the disaster, for compensation or damages for any loss of life or personal injury which has been, or is likely to be, suffered;

(*ii*) a claim, arising out of, or connected with, the disaster, for any damage to property which has been, or is likely to be, sustained;

(*iii*) a claim for expenses incurred or required to be incurred for containing the disaster or mitigating or otherwise coping with the effects of the disaster;

(*iv*) any other claim (including any claim by way of loss of business or employment) arising out of, or connected with, the disaster;

(*c*) "claimant" means a person entitled to make a claim;

(*d*) "Commissioner" means the Commissioner appointed under section 6;

(*e*) "person" includes the Government;

(*f*) "Scheme" means a Scheme framed under section 9.

Explanation.—For the purposes of clauses (*b*) and (*c*), where the death of a person has taken place as a result of the disaster, the claim for compensation or damages for the death of such person shall be for the benefit of the spouse, children (including a child in the womb) and other heirs of the deceased and they shall be deemed to be the claimants in respect thereof.

Power of Central Government to represent claimants.

3. (*1*) Subject to the other provisions of this Act, the Central Government shall, and shall have the exclusive right to, represent, and act in place of (whether within or outside India) every person who has made, or is entitled to make, a claim for all purposes connected with such claim in the same manner and to the same effect as such person.

(*2*) In particular and without prejudice to the generality of the provisions of sub-section (*1*), the purposes referred to therein include—

(*a*) institution of any suit or other proceeding in or before any court or other authority (whether within or outside India) or withdrawal of any such suit or other proceeding, and

(*b*) entering into a compromise.

(*3*) The provisions of sub-section (*1*) shall apply also in relation to claims in respect of which suits or other proceedings have been instituted in or before any court or other authority (whether within or outside India) before the commencement of this Act:

Provided that in the case of any such suit or other proceeding with respect to any claim pending immediately before the commencement of this Act in or before any court or other authority outside India, the Central Government shall represent, and act in place of, or along with, such claimant, if such court or other authority so permits.

Claimant's right to be represented by a legal practitioner.

4. Notwithstanding anything contained in section 3, in representing, and acting in place of, any person in relation to any claim, the Central Government shall have due regard to any matters which such person may require to be urged with respect to his claim and shall, if such person so desires, permit at the expense of such person, a legal practitioner of his choice to be associated in the conduct of any suit or other proceeding relating to his claim.

Power of Central Government.

5 of 1908.

5. (1) For the purpose of discharging its functions under this Act, the Central Government shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) any other matter which the Central Government may, by notification in the Official Gazette, specify.

(2) Every notification made under clause (f) of sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Commissioner and other officers and employees.

6. (1) For the purpose of assisting it in discharging its functions under this Act, the Central Government may appoint an officer, to be known as the Commissioner for the welfare of the victims of the Bhopal gas leak disaster, and such other officers and employees to assist him as that Government may deem fit.

(2) The Commissioner shall discharge such functions as may be assigned to him by the Scheme.

(3) The Commissioner and such of the officers subordinate to him as may be authorised by the Central Government by notification in the Official Gazette in this behalf may, for the discharge of their functions under the Scheme, exercise all or any of the powers which the Central Government may exercise under section 5.

(4) All officers and authorities of the Government shall act in aid of the Commissioner.

Power to delegate.

7. The Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, all or any of its powers under this Act (excepting the power under section 9 to frame a Scheme) to the Government of Madhya Pradesh or an officer of the Central Government not below the rank of a Joint Secretary to that Government or an officer of the Government of Madhya Pradesh not below the rank of a Secretary to that Government.

Limitation.

8. (1) In computing, under the Limitation Act, 1963 or any other law for the time being in force, the period of limitation for the purpose of instituting a suit or other proceeding for the enforcement of a claim, any period after the date on which such claim is registered under, and in accordance with, the provisions of the Scheme shall be excluded. 36 of 1963.

(2) Nothing in sub-section (1) shall apply to any proceedings by way of appeal.

Power to frame a Scheme.

9. (1) The Central Government shall, for carrying into effect the purposes of this Act, frame by notification in the Official Gazette a Scheme as soon as may be after the commencement of this Act.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), a Scheme may provide for all or any of the following matters, namely:—

(a) the registration of the claims under the Scheme and all matters connected with such registration;

(b) the processing of the claims for securing their enforcement and matters connected therewith;

(c) the maintenance of records and registers in respect of the claims;

(d) the creation of a fund for meeting expenses in connection with the administration of the Scheme and of the provisions of this Act;

(e) the amounts which the Central Government may, after due appropriation made by Parliament by law in that behalf, credit to the fund referred to in clause (d) and any other amounts which may be credited to such fund;

(f) the utilisation, by way of disbursal (including apportionment) or otherwise, of any amounts received in satisfaction of the claims;

(g) the officer (being a judicial officer of a rank not lower than that of a District Judge) who may make such disbursal or apportionment in the event of a dispute;

(h) the maintenance and audit of accounts with respect to the amounts referred to in clauses (e) and (f);

(i) the functions of the Commissioner and other officers and employees appointed under section 6.

(3) Every Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be framed, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

Removal of doubts.

10. For the removal of doubts, it is hereby declared that—

(*a*) any sums paid by the Government to a claimant otherwise than by way of disbursal of the compensation or damages received as a result of the adjudication or settlement of his claim by a court or other authority, shall be deemed to be without prejudice to the adjudication or settlement by such court or other authority of his claim to receive compensation or damages in satisfaction of his claim and shall not be taken into account by such court or other authority in determining the amount of compensation or damages to which he may be entitled in satisfaction of his claim;

(*b*) in disbursing under the Scheme the amount received by way of compensation or damages in satisfaction of a claim as a result of the adjudication or settlement of the claim by a court or other authority, deduction shall be made from such amount of the sums, if any, paid to the claimant by the Government before the disbursal of such amount.

Overriding effect.

11. The provisions of this Act and of any Scheme framed thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Repeal and saving.

1 of 1985.

12. (*1*) The Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The gas leak disaster involving the release, on 2nd and 3rd of December, 1984, of highly noxious and abnormally dangerous gas from a plant in Bhopal of the Union Carbide (India) Limited, a subsidiary of the Union Carbide Corporation, U.S.A., is of an unprecedented nature both from the point of view of its nature and its effects. It resulted in loss of life and damage to property on an extensive scale. Victims of the disaster who have managed to survive are still suffering from adverse effects and the further complications which may arise in their cases in course of time cannot be fully visualised even at this stage. The Central Government and the Government of Madhya Pradesh and various agencies had to incur expenditure on a large scale for containing the disaster and mitigating or otherwise coping with the effects of the disaster.

2. Government has been anxious to ensure that the interests of the victims of the disaster are fully protected and that the claims for compensation or damages for loss of life or personal injuries or in respect of other matters arising out of or connected with the disaster are processed speedily, effectively, equitably and to the best advantage if the claimants. The legal position was examined carefully with reference to the laws obtaining in the United States of America and in our country and in the light of the examination it was felt that special provisions should be made for processing the claims. Accordingly, the President promulgated on the 20th day of February, 1985, the Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985, to confer powers on the Central Government to represent the claimants and take all necessary steps for the processing of the claims. The Ordinance also provided for the appointment of a Commissioner for the welfare of the victims of the disaster and for the formulation of a Scheme to provide for various matters necessary for processing of the claims and for the utilisation by way of disbursal or otherwise of amounts received in satisfaction of the claims.

3. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI; VEERENDRA PATIL.

The 8th March, 1985.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to empower the Central Government to represent and act in place of (whether within or outside India) every person who has made or is entitled to make a claim for all purposes connected with such claim in the same manner and to the same effect as such person. Sub-clause (2) of the said clause provides that the Central Government may institute any suit or other proceedings in or before any court or other authority (whether within or outside India) or withdraw of any such suit or other proceedings or enter into a compromise. This would involve engagement of lawyers and also various expenses incidental to litigation. It is not possible to estimate at this stage the expenditure which may be involved.

2. Clause 6 of the Bill provides for the appointment of a Commissioner for the welfare of the victims of the Bhopal gas leak disaster and of other officers and employees to assist him. The salaries and allowances of the Commissioner and other officers and employees to be appointed under this clause and other incidental administrative expenditure shall be defrayed out of the Consolidated Fund of India. The expenditure on this account which will be of a recurring nature is likely to be of the order of Rs. 1.25 lakhs per month.

3. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill provides for the exercise by the Central Government of certain powers which a civil court may, while trying a suit under the Code of Civil Procedure, 1908, exercise in respect of the matters expressly mentioned in the clause and also in respect of any other matter which may be specified by that Government by notification in the Official Gazette.

2. Clause 7 of the Bill empowers the Central Government to delegate by notification all or any of the powers under the legislation (excepting the power under clause 9 to frame a Scheme) to the Government of Madhya Pradesh or any officer of the Central Government not below the rank of a Joint Secretary to that Government or an officer of the Government of Madhya Pradesh not below the rank of a Secretary to that Government.

3. Clause 9 of the Bill empowers the Central Government to frame a Scheme to carry into effect the purposes of the Bill. Sub-clause (2) of the said clause enumerates the matters with respect to which the Scheme may be made. These matters, *inter alia*, relate to the registration of claims, the processing of claims, the maintenance of records and registers in respect of the claims, creation of a fund for meeting expenses in connection with the administration of the Scheme, the amounts which the Central Government may after due appropriation made by law in that behalf, credit to the fund, the utilisation by way of disbursal of any amounts received in satisfaction of the claims, maintenance and audit of accounts, the functions of the Commissioner and other officers and employees appointed under the legislation.

4. As these matters relate to procedure or details or matters in respect of which it is not practicable to make specific provision in the legislation itself, the delegation of legislative power is of a normal character.

Memorandum indicating the modifications contained in the Bill to replace the Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985.

Except for providing in clause 9 of the Bill that a Scheme thereunder should be framed by notification in the Official Gazette and for including the provisions as to laying contained in clause 12 of the Ordinance at the appropriate place in clause 5 [*vide* sub-clause (2) thereof] and clause 9 [*vide* sub-clause (3) thereof], the provisions of the Bill do not involve any deviation from those of the Ordinance.

SUDARSHAN AGARWAL,
Secretary-General.

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